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| Resubmitted | <u>September 28, 2005</u> |
| Approved | <u>As Written</u> |
| Date | <u>September 28, 2005</u> |

**MINUTES OF THE ROCKVILLE PLANNING COMMISSION
MEETING NO. 13-05
Wednesday, July 13, 2005**

The City of Rockville Planning Commission convened in regular session in the City Hall Council Chamber Room at 7:00 p.m., Wednesday, July 13, 2005.

**PRESENT
John Britton, Chair
Gerald Holtz Steve Johnson
Frank Hilton Kate Ostell**

Absent: Robin Wiener

Present: Art Chambers, Director of Community Planning & Development Services
Jim Wasilak, Chief of Planning
Sondra Block, Assistant City Attorney
Castor Chasten, Planner III
Margaret Hall, Planner II

Commissioner Britton welcomed Jim Wasilak as the Department's new Chief of Planning.

REVIEW AND ACTION

Final Record Plat plt2004-00428, Woodmont Country Club

The applicant is requesting approval for consolidation of multiple parcels into a single record lot of 458.12 acres in the R-E Zone at 1201 Rockville Pike.

Mr. Chasten presented the staff report. This record plat is submitted in accordance with two previously approved amendments to the original use permit. In 2004, USA65-0249A allowed the applicant to demolish the existing golf shop/bag storage and cart-room building and construct a new golf shop and golf instruction building facility and a new golf cart and bag storage building. Mr. Chasten noted that, as part of those approvals, the applicant agreed to clean up the record plats for this property, which is the matter before the Commission this evening. This record plat represents a total consolidation of the subject properties.

Jeff Lewis with Site Solutions, presented the applicant's request.

Commissioner Hilton moved, seconded by Commissioner Ostell to approve Final Record Plat plt2004-00428, Woodmont Country Club per staff recommendations. The motion passed unanimously.

Time Extension Use Permit USE2002-00643, Goddard School

The applicant is requesting approval for a second and final one-year time extension to begin construction of a private school at 9150 Darnestown Road.

Ms. Hall presented the staff report. She stated that this use permit was approved three years ago. There have been some alternative options being explored for this property. For example, they are trying to secure approval of a plan for residential development of the property. The applicant/contract purchaser terminated its efforts to seek residential use for the subject property effective June 6, 2005. The result of that late business decision by the contract purchaser is that Mr. Flax does not have an adequate period of time to obtain the necessary permits to initiate construction of its approved child day care center. Therefore, Mr. Flax would like to keep his options open by having the original use permit approval for the Goddard School extended.

In response to Commissioner Britton, Jody Kline, Attorney, explained the request for the one-year time extension.

Ross Flax, The Goddard School, explained his intention for the request. Mr. Flax stated that they currently have a school in King Farm that is doing very well. Mr. Flax noted that the schools would be 2½ miles apart if a second school were to be built on Darnestown Road. He pointed out that, unless the situation were ideal, he would not build two of the same types of schools so close together. In the interim, because land has become so valuable, and that land has been sitting out there for some time, a developer contacted his people for the purpose of residential development. Mr. Flax explained that because of the developer terminating his efforts, they are now in a predicament because the use permit is expiring and he has put in a lot of time and effort and expense into the process in order to get it to where it is, correctly. However, there is interest in the community to have the property developed into six residential lots as opposed to a Goddard School. Mr. Flax stated that the Goddard School in King Farm has a good reputation with a reasonably full capacity.

Commissioner Britton asked Mr. Flax if he were to sell this property, would he look for another location for his school. Mr. Flax replied that he would look for another location such as in the Clarksburg area. Commissioner Britton noted that, at the time of the approval of the use permit, he recalls that there was a tremendous need for the school. Now, the need has changed. Commissioner Britton asked why Mr. Flax has not yet put a school in that location. Mr. Flax replied that there is a substantial amount of investment that needs to go into a Goddard School in terms of building a structure, employees, etc.

Mr. Kline stated that the Goddard School is unique, but in the Darnestown Road location, the universe of people is a bit smaller, but they are certain they would do a good job to fill the school.

Commissioner Britton questioned what Mr. Flax would do, if the Commission were to deny his request. Mr. Flax replied that he would have no choice but to go back through the process if there is not a buyer for the land. He noted that the Goddard School in King Farm is stable enough and it would not be an ideal thing to do to have two of his schools so close together.

Ms. Hall pointed out that the use permit was a very long process and it took a long time to obtain approval for the Goddard School. If the use permit were to be allowed to expire, Mr. Flax would have to begin the entire process from scratch.

The Commission discussed concerns regarding the “good cause shown” to approve the time extension, other possible locations for the school if the use permit expires, and whether the Goddard School is the best use for the site.

After further discussion, Commissioner Holtz moved, seconded by Commissioner Johnson to approve a one-year time extension for Use Permit Application USE2002-00643. The motion passed on a vote of 4-1 with Commissioner Hilton voting nay.

Time Extension Use Permit USE2002-00653, Mt. Calvary Baptist Church

The applicant is requesting approval for an eight-month time extension to begin construction of a new sanctuary and associated facilities at 608 North Horners Lane.

Mr. Chasten presented the staff report. Mr. Chasten updated the Commission on the previously approved use permit to expand the existing church, construct additional site surface parking facilities, install new site vehicular entrances on North Horners Lane as well as other associated site improvements.

Jody Kline, Attorney, presented the applicant’s request. Mr. Kline presented the reasons why Mt. Calvary Baptist Church is requesting a time extension. Mr. Kline reported that, during the review of the Church’s application, including analysis of the City’s stormwater management concept using bioretention measures, the City expressed concern about groundwater levels in the area of the stormwater management basins. Because of this concern, the City requesting that Mt. Calvary conduct additional soil borings and prepare an amended geotechnical report. When those steps were accomplished, the City concluded that high ground water levels in the area of the Church’s proposed stormwater management devices would inhibit the use of basins intended to function as bioretention devices. Instead, the City recommended that shallow filters be utilized. As a result, the Church had to revise and resubmit its stormwater management concept for City review. This unexpected request has caused the issuance of a building permit to be delayed. Mr. Kline stated that, during the review of Mt. Calvary’s building permit application, the senior engineer with the civil engineering firm handling the Church’s application suffered a stroke

and was incapacitated for an extended period. He stated that the workload currently experienced by all civil engineering firms, submissions of materials to the City were made later than had been anticipated, thus further delaying the issuance of a building permit.

Isham Baker, Architect, explained the delay. Mr. Baker stated that the final review is almost complete.

After further discussion, Commissioner Hilton moved, seconded by Commissioner Ostell to approve Time Extension Use Permit USE2002-00653, Mt. Calvary Baptist Church for a one-year time extension. The motion passed unanimously.

Street Name Change

The applicant, Mayor and Council, requests approval to rename North Maryland Avenue, north of East Middle Lane.

Ms. Hall presented the staff report. Ms. Hall stated that the Post Office has requested that North Maryland Avenue be changed due to the repeated numbering that goes with the practice. Ms. Hall explained that there is currently a 100 block on Maryland Avenue and there is a 100 block proposed for North Maryland Avenue. The Post Office's contention is that many mailings do not include the "direction" in the address and are commonly delivered to the address without it. This means that the sorting of this mail is left to addresses that do not have the direction in the address. Therefore, the Post Office is requesting that the "North" be dropped from the street name or that the street be entirely renamed in order to eliminate this possibility.

Ms. Hall informed that Commission that staff does not believe that it is appropriate to change the name of a street in the middle. The available address numbers have been reviewed and it appears that there is an acceptable numbering pattern to allow the street to be renamed just Maryland Avenue. It should be noted that there might be need to be some renumbering along Maryland Avenue in the future if Maryland Avenue continues north of Beall Avenue.

Ms. Hall stated that the Mayor and Council have reviewed this matter and are recommending that the Planning Commission rename North Maryland Avenue to Maryland Avenue. She noted that the Mayor and Council have expressed desire for Newmarket Street to have a distinctive name. Frog Run is the creek that ran through the area when it was originally settled but portions of it were moved underground as development occurred. Other street names have also been considered for Newmarket Street, but have not been determined to be acceptable at this time. As a result, the Mayor and Council requested that at least four historically related names be brought back to them for consideration and recommendation. Ms. Hall stated that there has not been enough time to come up with acceptable names at this time. Due to the progressing development within Town Center, it is important to change North Maryland Avenue to Maryland Avenue as soon as possible. Staff will bring back suggested names for Newmarket Street at a later date.

The Commission discussed concerns about the renumbering and renaming of streets and how it would affect the businesses and residences in Town Center.

Harry Thomas, 1121 Lewis Avenue, stated that this was done in Crystal City and the concern was that it would cost thousands of dollars for businesses and residents to change their stationary. Ms. Hall stated that it would be covered by insurance.

Commission Johnson moved, seconded by Commissioner Holtz to recommend approval to change the street name from North Maryland Avenue to Maryland Avenue. The motion passed unanimously.

The Commission discussed the renaming of Newmarket Street. Staff explained that the City cannot duplicate County street names. Other names will be brought before the Commission soon.

COMMISSION ITEMS

Old Business

Modification of a Condition of Approval for Use Permit USE2005-00683, Christ Episcopal Church and School

The applicant is requesting to modify a condition related to a Final Record Plat for the properties at 107, 109, 119 and 119½ South Washington Street and 22 West Jefferson Street.

Ms. Block presented the staff report. Ms. Block updated the Commission regarding the pre approved use permit, which allows for the expansion of the existing private church school and to operate a school at 22 West Jefferson Street. She noted that the applicant has a special exception approval as well. As part of the use permit approval, at the staff's request, is a condition that requires that "Final Record Plat PLT2005-00444 must be approved prior to the issuance of occupancy permits." The record plat was filed by the applicant, as directed by staff, for the purpose of consolidating all of the subject church properties in order to create a single record plat. Staff has discovered that such lot consolidation is not permitted under Section 25-315.1 of the Zoning Ordinance, which reads as follows: "Special development standards in the O-2 Zone. Resubdivision for the purpose of assembling existing lots is not permitted." The Mayor and Council adopted this requirement under Zoning Text Amendment 2003-00196 on April 23, 2003. Therefore, staff would request that the use permit approval Condition 1.f. be formally eliminated or modified. Ms. Block explained that staff requests this action by the Planning Commission because the property located at 22 West Jefferson Street is zoned O-2 and is currently comprised of three lots, identified as Block 2, Pt. Los, 8, 9 & 10 – Rockville.

Ms. Block stated that if the Planning Commission would like to retain Condition 1.f., she would like to make a slight alternation from what was stated in the staff report. She

recommended that the condition should be modified to read, "Final Record Plat PLT2005-00444 must be submitted and approved to formally consolidate all properties subject to said use permit approval at such time as such consolidation can be legally accomplished."

In response to Commissioner Britton, Ms. Block stated that, rather than modifying the condition, she said it would be easier to eliminate it altogether. She said she believes that the applicants want to consolidate all those parcels as soon as they can appropriately do so.

The Commission and Ms. Block discussed concerns and questions regarding various options in the Zoning Ordinance to consolidate the subject properties. Ms. Block explained that this matter was of no fault of the applicants, staff had simply lost sight of the fact that there had been a sort of "stop gap" measure in the O-2 Zone that was never intended to prevent the consolidation of O-2 uses. In this case, there are different zones; the school is on O-2 and the church is on R-90.

Ms. Block stated that the Chief of Planning, Jim Wasilak, prefers the alternative, which is that the applicants subdivide when they can legally do so.

Soo Le Cho, Attorney with Miller, Miller & Canby, stated that the applicants have no objection to what has been proposed. She noted that the main concern is that the school is ready for the fall. She said she agrees with the Chief of Planning's alternative when the law allows them to do so.

Commissioner Ostell moved, seconded by Commissioner Holtz to approve the modification of Condition 1.f. of Approval for Use Permit USE2005-00683, Christ Episcopal Church and School. Ms. Block stated that Condition 1.f. would be modified to read as follows: "A final record plat must be submitted and approved for consolidating all properties subject to said use permit approval at such time as such consolidation can be legally accomplished." The motion passed unanimously.

Chief of Planning Report

Mr. Wasilak reported about upcoming agenda items coming before the Planning Commission. He stated that the Planning Commission's next meeting is July 27, 2005 with a full agenda such as, Detailed Application for Ingleside Senior Living facility in King Farm, Richard Montgomery High School use permit, and several plats.

Mr. Wasilak reported that on July 25, the Mayor and Council would be discussing Mansionization and a briefing to the Mayor and Council on Lincoln Park. July 26, the Mayor and Council will have a joint worksession with the Planning Commission to discuss two optional method applications.

The Commission discussed the August meeting and whether there would be a quorum. Mr. Wasilak stated that the Commission would not be meeting in the Mayor and Council Chamber because the room will be renovated during the month of August. The August 15 meeting would have to be at the Carnation Room at the Senior Center.

Mr. Wasilak stated that the Adequate Public Facilities Ordinance has been resurrected and will be discussed by the Mayor and Council.

Art Chambers stated that the Mayor and Council had scheduled a public hearing August 1, 2005. They chose to push that public hearing off until September 2005 and have a worksession August 1, 2005 to discuss some changes to the Adequate Public Facilities Ordinance.

The Commission and staff discussed the Legacy of Lincoln Park. He said the groundbreaking was scheduled for tomorrow morning at 10:30 am.

In response to Commissioner Britton regarding Chestnut Lodge site, Mr. Wasilak stated that the exploratory application for a PRU and he believes it coming before the Commission in September, 2005. Mr. Wasilak stated that the model is being held at Miller, Miller & Canby on Monroe Street. He noted that the Commissioners could view the model before the August Planning Commission meeting.

Mr. Chambers stated that the Historic District Commission (HDC) will be meeting in July in the Mayor and Council Chamber. The model of the proposed project will be going before the Commission at that time. The HDC is now being televised.

Minutes

Commissioner Ostell moved, seconded by Commissioner Johnson to approve the minutes of Meeting No. 11-05 as amended. The motion passed on a vote of 4-0-1 with Commissioner Hilton abstaining.

ADJOURN

After further discussion, the meeting adjourned at 8:21 p.m.

Respectfully submitted,

Tyler Tansing, Commission Secretary